

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 1003

Introduced by Senator Escutia

February 22, 2005

An act to add Chapter 6.5 (commencing with Section 25570) to Division 15 of the Public Resources Code, relating to the State Energy Resources Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1003, as amended, Escutia. Energy resources: liquefied natural gas terminals.

(1) Existing law, until January 1, 1988, authorized the Public Utilities Commission to issue a permit for the construction and operation of a liquefied natural gas terminal pursuant to a prescribed permit procedure.

This bill would enact the Liquefied Natural Gas Evaluation and Terminal Permitting Act. The bill would ~~authorize the State Energy Resources Conservation and Development Commission (energy commission) to~~ establish a permitting process for the construction and operation of liquefied natural gas terminals, as defined, *and would require the State Energy Resources Conservation and Development Commission to implement the permitting process, as specified.*

The bill would provide that a permit may contain conditions necessary or appropriate to ensure the public health, safety, and welfare and other terms and conditions, as provided. ~~The bill would require the energy commission to adopt regulations governing the safety and construction of a terminal, as provided.~~

(2) The bill would provide that it is to become operative only if SB 426 of the 2005-06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Liquefied natural gas may need to be imported into this state in order to meet consumer demand for natural gas at reasonable prices, which would require the construction of one or more liquefied natural gas terminals and associated infrastructure.

(2) Several liquefied natural gas terminals have been proposed to serve natural gas consumers in this state.

(3) It is in the public interest for the state to conduct an orderly and comprehensive public assessment of the impacts of the construction and operation of liquefied natural gas terminals on the economy, consumers, *communities*, the environment, and public health and safety.

(4) Public assessment of these impacts is a matter of statewide concern, and existing law reserves authority for that assessment to the state.

(b) It is the intent of the Legislature, in enacting this act, to establish clear statutory procedures by which the state may exercise its duties and authority with respect to the assessment and permitting of proposed liquefied natural gas terminals.

SEC. 2. Chapter 6.5 (commencing with Section 25570) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.5. LIQUEFIED NATURAL GAS EVALUATION AND
TERMINAL PERMITTING ACT

Article 1. General Provisions

25570. This chapter shall be known and may be cited as the Liquefied Natural Gas Evaluation and Terminal Permitting Act.

1 25570.1. For purposes of this chapter, the following
2 definitions apply:

3 (a) “Feasible” means capable of being accomplished in a
4 successful manner within a reasonable period of time, taking into
5 account all of the following:

6 (1) Economic, environmental, social, technological, safety,
7 and reliability factors.

8 (2) Gas supply and demand forecasts.

9 (3) Alternative sources of natural gas.

10 (b) “Liquefied natural gas” or “LNG” means natural gas
11 cooled to minus 259 degrees Fahrenheit so that it forms a liquid
12 at approximately atmospheric pressure.

13 (c) “Liquefied natural gas terminal,” “terminal,” or “LNG
14 terminal,” means facilities designed to receive liquefied natural
15 gas from ocean-going vessels, including those facilities required
16 for storage and regasification of the liquefied natural gas and
17 those pipelines and facilities necessary for the transmission of the
18 regasified natural gas to the point of interconnection with
19 existing pipelines.

20 ~~(d) “Local government” means a city, county, or city and~~
21 ~~county, whether chartered or general law, and a district.~~

22 ~~(e) “Offshore” means a location seaward of the mean high tide~~
23 ~~line of mainland California, including all islands.~~

24 ~~(f) “Onshore” means a location on the mainland of California~~
25 ~~landward of the mean high tide line.~~

26 ~~(g)~~

27 ~~(d)~~ “Permit” means the single authorization provided pursuant
28 to this chapter to construct and operate an LNG terminal in this
29 state.

30 ~~(h)~~

31 ~~(e)~~ “Person” means an individual, organization, partnership, or
32 other business association or corporation, the federal
33 government, the state government, any local government, and
34 any agency or instrumentality of any of those entities.

35 ~~(i) “State government” means the State of California or an~~
36 ~~agency, board, commission, or instrumentality thereof.~~

37 25570.2. A person shall not construct or operate an LNG
38 terminal without obtaining a permit pursuant to this chapter.

39 ~~25570.3. The issuance of a permit by the commission shall be~~
40 ~~in lieu of all other permits, licenses, certificates, or other~~

~~entitlements for use required by an agency of state or local government for the construction or operation of an LNG terminal, to the extent permitted by federal statute or regulation or a federal-state agreement relating to water discharge permits. Also, to the extent permitted by federal statute or regulation, the permit shall also be in lieu of all other permits, licenses, certificates, or other entitlements for use issued by an agency, department, or instrumentality of the federal government.~~

25570.4. The commission shall charge each person who applies for a permit pursuant to this chapter a fee, which shall be sufficient to reimburse the commission for all costs of review pursuant to this chapter.

25570.5. All state agencies shall cooperate with and, at the request of the commission, shall execute interagency agreements to assist the commission in evaluating a site identified pursuant to Article 2 (commencing with Section 25571). The costs incurred by a state agency as the result of an interagency agreement shall be paid by the commission and shall be reimbursed from fees collected pursuant to Section 25570.4.

~~25570.6. If it is necessary to obtain a lease, easement, or other interest in real property from the State Lands Commission in order to construct and operate a terminal, the lease, easement, or other interest shall be obtained from the State Lands Commission. The Legislature finds and declares that leasing of state lands for the purpose of constructing and operating a terminal approved pursuant to this chapter is in the public interest; and that if that lease is required to construct and operate a terminal, the State Lands Commission shall enter into that lease.~~

25570.7. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Article 3. Application for Permit

25572. The permit application shall contain the following information:

1 (a) ~~Information, including maps and pictorial~~ *Maps, pictorial,*
2 and written descriptions of present and proposed development for
3 the site, and relevant geological, archeological, aesthetic,
4 ecological, ~~and seismic marine transport~~ *seismic, marine*
5 *transport, and population* data.

6 (b) A detailed description of the proposed engineering design
7 features, proposed methods of construction, and proposed
8 operating procedures for the terminal, and the proposed plan for
9 marine operations, including shipping routes and control
10 procedures.

11 (c) An analysis of accident possibilities, consequences, and
12 risks for the terminal.

13 (d) ~~Information regarding~~ *A description of* safety and public
14 protection features, including *compatibility with defense and*
15 *homeland security objectives*, fire protection measures, marine
16 navigational systems, emergency systems for shutting down the
17 terminal, and other contingency plans for accidents.

18 (e) ~~Information regarding the~~ *The* cost of the terminal, fuel
19 consumption by operating terminal equipment, service life of the
20 terminal, and capacity of the terminal.

21 (f) ~~Information regarding the~~ *The* source of liquefied natural
22 gas, including the contractual terms for the delivery of gas
23 supplies.

24 (g) A description of all proposed ~~or~~ *and* existing natural gas
25 transmission lines related to the proposed terminal, including a
26 map, in suitable scale, of the routing that shows details of the
27 right-of-way in the vicinity of populated or developed areas,
28 parks, and recreational areas; the justification for the route; and a
29 preliminary statement of the effect of any proposed natural gas
30 transmission line on the environment.

31 (h) A description of contingency plans for transmitting
32 equivalent volumes of natural gas in the event of both short- and
33 long-term interruptions of the LNG supply system for the
34 proposed terminal.

35 (i) A description of the proposed method of financing the
36 terminal and analysis of the costs of the terminal on natural gas
37 consumers in this state.

38 (j) The result of the commission's ranking pursuant to Article
39 2 (commencing with Section 25571).

1 (k) *Evidence of approvals required by any other state or local*
2 *agency for the construction and operation of the terminal.*

3 ~~(k)~~

4 (l) Any other information that the applicant deems necessary
5 or desirable to support its application and better inform the
6 commission and the public.

7 25572.1. At any time after the filing of the application, the
8 commission may require the applicant to furnish additional,
9 relevant information as may be necessary to carry out the
10 purposes of this chapter.

11
12 Article 4. Permit to Construct and Operate an LNG Terminal

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14 25576. The commission shall issue a decision on an
15 application for a permit to construct and operate an LNG
16 terminal pursuant to this article.

17 25576.1. (a) The commission shall not issue a permit for
18 construction and operation of a terminal at a site that is not
19 evaluated and ranked pursuant to Article 2 (commencing with
20 Section 25571).

21 (b) *The commission shall not issue a permit for construction*
22 *and operation of a terminal unless the terminal has received all*
23 *other approvals otherwise required by law.*

24 ~~(b)~~

25 (c) If the commission issues a permit, the commission shall
26 issue a permit for construction and operation at the site
27 designated as the highest ranked site, *unless the commission*
28 *determines that construction and operation of the highest ranked*
29 *site is not feasible, and that issuance of a permit to the next*
30 *highest ranked site is necessary and consistent with this chapter.*
31 ~~However, the commission may select a lower ranked site if it has~~
32 ~~determined with respect to each higher ranked site that it is not~~
33 ~~feasible to complete construction and commence operations of~~
34 ~~the terminal at the higher ranked site in sufficient time to prevent~~
35 ~~significant curtailment of high priority requirements for natural~~
36 ~~gas and that approval of the lower ranked site will significantly~~
37 ~~reduce that curtailment.~~

38 ~~25576.2. (a) The commission shall not issue a permit for~~
39 ~~construction and operation at any site unless it finds that to do so~~
40 ~~is consistent with the public health, safety, and welfare and may~~

1 ~~impose any conditions on the issuance of a permit that may be~~
2 ~~necessary or appropriate to ensure the public health, safety, and~~
3 ~~welfare.~~

4 ~~(b) Prior to issuing a permit for construction and operation at a~~
5 ~~site, the commission shall review all comments on the site~~
6 ~~submitted by the State Water Resources Control Board, a~~
7 ~~regional water board, or a regional air district.~~

8 ~~25576.3. If the commission issues a permit for construction~~
9 ~~and operation, it shall impose as a condition of the permit each~~
10 ~~term and condition recommended for the selected site pursuant to~~
11 ~~Article 2 (commencing with Section 25571), unless the~~
12 ~~commission first finds with respect to each term or condition any~~
13 ~~of the following:~~

14 ~~(a) Imposition of the term or condition will cause delays in~~
15 ~~commencement of terminal operations that will result in~~
16 ~~significant curtailment of high priority natural gas requirements~~
17 ~~and that deletion or modification of the term or condition will~~
18 ~~avoid or significantly reduce that curtailment.~~

19 ~~(b) The report recommending the term or condition was not~~
20 ~~based on substantial evidence, considering the record as a whole.~~

21 ~~(c) Imposition of the term or condition will adversely affect~~
22 ~~public health or safety.~~

23 ~~25576.4. If the commission proposes to issue a permit for the~~
24 ~~construction and operation of a terminal at a site not specified in~~
25 ~~an application submitted pursuant to this chapter, the applicant~~
26 ~~may amend an application to specify that other site.~~

27 ~~25576.5. (a) For the purposes of this chapter, the commission~~
28 ~~shall be the lead agency for the purpose of complying with~~
29 ~~Division 13 (commencing with Section 21000).~~

30 ~~(b) In fulfilling its responsibilities pursuant to Division 13~~
31 ~~(commencing with Section 21000), the commission may, upon~~
32 ~~payment of appropriate consideration, become the successor in~~
33 ~~interest to any local government or entity of state government~~
34 ~~that has any outstanding contract that is germane to the~~
35 ~~commission's responsibilities under this section.~~

36 ~~25576.6. (a) Prior to issuance of a permit to construct and~~
37 ~~operate a terminal, the commission shall hold at least one public~~
38 ~~hearing in the city or county where the terminal is proposed to be~~
39 ~~located.~~

1 (b) To the greatest extent possible, the commission shall
2 expeditiously provide information to that city or county and
3 cooperate with requests for information to enable the city or
4 county to develop and present recommendations in a timely
5 fashion.

6 (c) The city or county within whose jurisdiction the terminal is
7 proposed to be located may hold public hearings on the proposed
8 terminal.

9 (d) The city or county may make appropriate
10 recommendations to the commission, including, but not limited
11 to, recommendations regarding safety, protection of the
12 environment, and local land use.

13 ~~25576.7. (a) The commission shall adopt regulations~~
14 ~~governing the safety and construction of a terminal. In adopting~~
15 ~~these regulations the commission shall consult with the Division~~
16 ~~of Industrial Safety of the Department of Industrial Relations and~~
17 ~~with all other relevant state or federal agencies, for the provision~~
18 ~~of information as the commission may require.~~

19 ~~(b) The commission shall establish a monitoring system to~~
20 ~~ensure that a terminal authorized pursuant to this chapter is~~
21 ~~constructed and operated in compliance with all applicable~~
22 ~~regulations adopted and terms and conditions established~~
23 ~~pursuant to this chapter.~~

24 ~~25576.8. The Public Utilities Commission shall monitor costs~~
25 ~~incurred by a person or entity subject to its regulation in the~~
26 ~~construction, or in the preparation for construction, of a terminal~~
27 ~~subject to this chapter in order to determine if the costs are in the~~
28 ~~best interests of the ratepayers. This monitoring may commence~~
29 ~~prior to the issuance of a permit pursuant to this chapter.~~

30 ~~25576.9. No provision of this article shall be construed to~~
31 ~~abridge or limit in any manner the jurisdiction of the Division of~~
32 ~~Industrial Safety of the Department of Industrial Relations~~
33 ~~conferred pursuant to Division 5 (commencing with Section~~
34 ~~6300) of the Labor Code. Notwithstanding Section 7624 of the~~
35 ~~Labor Code, all matters relating to LNG storage tanks shall be~~
36 ~~within the jurisdiction of the Division of Industrial Safety, except~~
37 ~~for those provisions pertaining to the issuance of permits.~~

38 *25580. Notwithstanding any other provision of law, any*
39 *responsible agency for an application to construct and operate*
40 *an LNG terminal shall consider that application within 180 days*

1 *from the date of the certification by the lead agency of an*
2 *environmental impact report prepared pursuant to Section 21000*
3 *or 21151.*

4 ~~SEC. 4.—~~

5 *SEC. 3.* This act shall become operative only if Senate Bill
6 426 of the 2005-06 Regular Session is also enacted and becomes
7 operative on or before January 1, 2006.

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